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DDS&T-4791-81
19 October 1981

MEMORANDUM FOR: Deputy Director for Administration

STAT FROM:
Chief, Administrative Staff, DDS&T

SUBJECT: Dual Benefits for Employees

REFERENCE: Travel Policy Committee Memo ADPP 39-81

1. In reviewing the reference proposal, I believe it is deficient in several key areas. The result may well cause serious legal, financial and morale problems for the Agency.

2. The policy statement in paragraph 2 speaks of establishing new entitlements for travel and allowance benefits for two married, full-time staff employees because of their individual "staff status." However, the legal opinions written on dual benefits, and the revised wording of paragraph 3a on Applicability, state the new policy pertains not just to staff employees, but to all full-time staff or contract employees. Further, as written, authorizing and approving officers will have no discretionary authority in this matter, but shall authorize these benefits except in the few obvious situations explicitly noted.

3. Travel benefits and allowances were added over time to offset or cover needs and financial hardships encountered by employees in PCS travel. The proposed policy seeks to convert the basis for the allowances to a right of status divorced from need. In fact, the policy by incorporating the word "shall" goes beyond this by making authorization mandatory. For example, on POV shipment, the authorizing official is directed to authorize "each employee the shipment of one POV." This mandate totally ignores cost, benefit to the government, the propriety, cover or need by the employees for two POV's at a foreign post. Employee morale should be shaken when it is discovered that two married employees will automatically get a higher HHE allowance than a family of five or six.

4. Another aspect of this proposed policy concerns the precedent being established which can be used in other areas. However, at this time the greatest impact will be the across-the-board coverage being proposed for all types of contract employees. The OGC opinion, because the dual-benefits policy is based on status rather than need, is forced to conclude that contract employees have

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a right to these benefits. OGC 81-06612 finds that any limitation (of statutory benefits)

would derive not from the employee's status as contract or staff, but rather from the nature of that employee's service to the Agency. ... the Agency may restrict the available statutory benefits so long as the Agency restricts similarly situated employees in a consistent fashion.

5. If the proposed policy were set in recognition that two, married, full-time employees may have need by virtue of their duties overseas to have an additional amount of HHE, air freight, or second vehicle, etc., then the policy is justified. To be eligible, both employees would have to be going overseas to fill existing Agency staff positions. This recognizes that both employees are overseas in their own right, and not by virtue of one being there because they were a spouse. Since their official duties, either in this country or in their overseas post, have justified the need for an additional allowance, the authorizing official could then approve the incremental allowances based on need and on a benefit to be received by the government. I recommend that the concept of dual benefits be returned to the Travel Policy Committee to be recast in terms of meeting employee needs.

STAT

cc: Chief, Travel Policy Committee
Deputy Director of Personnel
SSA/DDA